

MULTIYEAR (MY) PROCUREMENT

- A term with a specific meaning
 - It is not just any contract that spans more than one year
 - Government buys entire MY quantity at the outset (unlike what we do when we use options)
 - Includes Fiscal Year (FY) requirements covering 2-5 FYs
 - Funded with annual appropriations
 - Large MY contracts must be specifically approved by Congress
 - STATUTES: 10 USC 2306b (supplies)*
10 USC 2306c (services)
 - CONTRACTING REGULATIONS: FAR 17.1 AND DFARS 217.1
 - FINANCING REGULATIONS: DOD 7000.14-R

*training tailored to supplies

PRINCIPAL DIFFERENCES BETWEEN MY AND CONVENTIONAL CONTRACTS

Requirements (# of units to be contracted for each FY):

	<u>FY 1</u>	<u>FY 2</u>	<u>FY 3</u>	<u>FY 4</u>	<u>FY 5</u>	<u>TOTAL</u>
Aircraft	20	20	20	20	20	100

	<u>Conventional (contract for multiple years via options)</u>	<u>Multiyear</u>
INITIAL CONTRACT	One contract for FY 1 req't of 20 AC - 4 options	One MY contract for all 100 AC
CONGRESSIONAL "COMMITMENT"	To FY 1 buy of 20 AC	To buy of 100 AC from FY 1- FY 5
TREATMENT OF OUT-YEAR REQ'TS IN INITIAL CONTRACT	Option for each FY's req'ts	Separate firm line item for each FY's req'ts
PREREQUISITES TO "ACTIVATING" CONTRACT TO BUY NEXT YEAR'S REQ'TS	Quantity authorization for FY 2 option	-
	Appropriation by Congress adequate To fund FY 2 Option	Appropriation by Congress adequate to fund FY 2 of MY
	Contracting Officer Determination prior To exercising the option	-
OPPORTUNITIES FOR ENDING CONTRACT	Termination for Convenience - Anytime during performance Period	Cancellation - between FYs

MULTIYEAR (MY) PROCUREMENT

- Statutory criteria for use (10 USC 2306b(a))
 - Substantial savings
 - Stable Requirement
 - Stable Funding
 - Stable Design
 - Realistic estimates of contract cost & savings
 - Promotes national security
- Fixed-price Type of Contract consistent with statutory criteria for low risk MY program
- Advantages
 - Lower costs
 - Stabilizing contractor plans and work forces
 - Continuity of production, avoiding annual startup and phaseout costs, preproduction testing, etc
 - Provides incentives for contractors to improve productivity through investment in capital facilities, equipment, and advanced technology
 - Reduced administrative burden in placing and administering multiple contracts
 - Broaden competitive base - firms not otherwise willing or able to compete for lesser quantities, especially if high startup costs
- MY for major systems require explicit approval
 - Described in budget exhibits
 - Congress makes tradeoff decision: Do advantages outweigh disadvantage of
 - Loss of flexibility in future budget years
 - Committing future Congresses
 - Congressional approval via Appropriations and Authorizations Acts

UNIQUE FEATURES OF MYP

- Cancellation clause
 - Allows Government to end the contract if funds are not appropriated for the next year
 - e.g., no funds appropriated for FY 2, req'ts for FYs 2-5 are cancelled
 - Establishes a cancellation ceiling, which is the Government's maximum liability in the event of cancellation
 - Ceiling is less per succeeding FY
 - Establishes basis for negotiating cancellation payment to the contractor, so contractor is protected from loss
 - Exact cancellation amount negotiated is called the cancellation charge
- Types of Costs in Cancellation Ceiling
 - Non-recurring costs
 - Generally incurred on a one-time basis
 - Plant rearrangement, special tooling and special test equipment, specialized work force training, etc.
 - Amortized over the entire FY quantity
 - May include recurring costs
 - Up-front investment to obtain lower prices
 - economic order quantity (EOQ)

BACKUP SLIDES

CONGRESSIONAL APPROVALS/NOTIFICATIONS

Defense acquisitions specifically authorized by law

- MY contract equal to or greater than \$500M
- SecDef certifies to Congress that the current future-years defense program fully funds support costs
- If law requires cost savings to be achieved under the MY contract,
 - if substantial but not the full specified savings will be achieved,
 - may submit to congress a request for relief from the specified costs savings

Notification to Congressional Defense Committees by Head of Agency,

- 30 days prior to award
 - EOQ exceeding \$20M in any one year
 - Unfunded contingent liability exceeding \$20M
 - Cancellation Ceilings
 - Exceeding \$100M
 - If budget for contract does not include funds covering ceiling in excess of \$100M, head of agency must notify committees of-
 - Ceiling amounts planned for each year of contract and reasons for the amounts planned;
 - Extent to which cancellation costs are not in budget of contract;
 - Financial risk assessment
- 10 days prior to termination

Additional Req'ts

- EOQ advance procurement must be funded to limits of liability
- Annual reports to Congress

FUNDING

- Two components:
 1. Conventional and MY contracts - End items being acquired in each year, e.g., FY 02
 - Full funding
 1. in year of req't
 2. obligate in FY 02
 - Advance procurement (AP) to save time
 3. obligated one year in advance of req't
 4. to protect delivery schedule - "long lead items"
 5. obligate in FY 01
 2. MY contracts - Cancellation ceiling
 - Non-recurring costs
 - Recurring costs
 6. Economic Ordering Quantity (EOQ) - to achieve savings
 7. Funded with AP dollars
 8. Inclusion requires approval of Agency Head and Comptroller
- Funding of cancellation ceilings:
 - Full Funding of ceiling:
 - policy of "pay as you go"
 - quantify worse case and hold \$ in reserve
 - if terminate/cancel, funds are available to cover costs
 - Unfunded contingent liability:
 - Risk of terminating/canceling is low
 - Does not tie up large amount of Total Obligation Authority
 - if terminate/cancel, program must find money to cover cancellation costs

FUNDING OF MY (CONT)

FY FUNDS

PUT ON

CONTRACT: FY 00 FY 01 FY 02 FY 03 FY 04 FY 05

FY REQ'T:

FY 01	L & E	P				
FY 02	E	L & E	P			
FY 03	E	E	L & E	P		
FY 04	E	E	E	L & E	P	
FY 05	E	E	E	E	L & E	P

L = ADVANCE PROCUREMENT FUNDS FOR LONG LEAD ITEMS AND EFFORT

E = ADVANCE PROCUREMENT FUNDS FOR EOQ ITEMS AND EFFORT

P - PROCUREMENT FUNDS FOR PROCUREMENT OF END ITEMS

MY DEFINITIONS

"Advance procurement" means an exception to the full funding policy that allows acquisition of long lead time items (advance long lead acquisition) or economic order quantities (EOQ) of items (advance EOQ acquisition) in a fiscal year in advance of that in which the related end item is to be acquired. Advance procurements may include materials, parts, components, and effort that must be funded in advance to maintain a planned production schedule.

"Cancellation" means the cancellation (within a contractually specified time) of the total requirements of all remaining program years. Cancellation results when the contracting officer-

Notifies the contractor of nonavailability of funds for contract performance for any subsequent program year; or

Fails to notify the contractor that funds are available for performance of the succeeding program year requirement.

"Cancellation ceiling" means the maximum cancellation charge that the contractor can receive in the event of cancellation.

"Cancellation charge" means the amount of unrecovered costs which would have been recouped through amortization over the full term of the contract, including the term canceled.

"Economic order quantity" (FMR) means an exception to the full funding policy that allows the use of advance procurement to purchase more than 1 FY's program increment of components, materials, and parts in order to obtain the economical advantages, sustain a production line, to support low rate initial production, etc.

"Multi-year contract" means a contract for the purchase of supplies or services for more than 1, but not more than 5, program years. A multi-year contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds, and (if it does so provide) may provide for a cancellation payment to be made to the

contractor if appropriations are not made. The key distinguishing difference between multi-year contracts and multiple year contracts is that multi-year contracts, defined in the statutes cited at 17.101, buy more than 1 year's requirement (of a product or service) without establishing and having to exercise an option for each program year after the first.

"Nonrecurring costs" means those costs which are generally incurred on a one-time basis and include such costs as plant or equipment relocation, plant rearrangement, special tooling and special test equipment, preproduction engineering, initial spoilage and rework, and specialized work force training.

"Recurring costs" means costs that vary with the quantity being produced, such as labor and materials.

DIFFERENCES BETWEEN TERMINATION FOR
CONVENIENCE AND CANCELLATION

	Termination For Convenience	Cancellation
Type of Contract	Conventional	MY
When Action May be Taken	Anytime during performance	Anytime, but usually at the start of the FY
What the Action Affects	Either the total quantity or a portion	All subsequent FYs' quantities
Reason Action is Taken	Best Interest of The Government	Funds are not available for succeeding FY
Contractor Action	Submits settlement proposal IAW FAR 52.249-2	Submits cancellation claim IAW FAR 52.217-2
Termination Liability	As negotiated	As negotiated (cancellation charge) but within ceiling